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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/601,289 | 06/20/2003 | Richard J. Murphy | WIN.1 | 6379 |
| 26689 | 7590 | 10/07/2004 | EXAMINER | |
| WILDMAN, HARROLD, ALLEN & DIXON 225 WEST WACKER DRIVE CHICAGO, IL 60606 | | | MENDIRATTA, VISHU K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3711 | |

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/601,289 | Applicant(s) MURPHY ET AL. | |
| | Examiner Vishu K Mendiratta | Art Unit 3711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-35 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
5) ☐ Claim(s) ____ is/are allowed.
6) ☒ Claim(s) 1 and 5-35 is/are rejected.
7) ☐ Claim(s) ____ is/are objected to.
8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

1. **Claims 1,5-7 rejected under 35 U.S.C. 102(b) as being anticipated by official notice of any wine tasting procedure.**

Wine tasting procedures are universally accepted as creating a database of information prior to subjecting a wine to a test or a competition. Wines are tested and information such as its origin, aroma, year of make etc. are recorded for qualifying a wine. An expert who has compiled or at least as made records of such data in preliminary tasting process is then allowed to taste unknown wines and answer questions regarding character to the unknown wine.

2. **Claims 1,5-19,24-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Truong in view of Official notice of any wine tasting procedures.**

Truong teaches a method of playing a board game advancing a game piece (abstract), tasting an unidentified beverage (Table 1) and answering question (abstract). Truong clearly anticipates tasting at least two beverages before advancing. This can be explained in the following manner. The limitation "advancing" is interpreted as any intermediate movement and not necessarily the first or the beginning step, in that any tasting of beverage in prior steps is being treated as "preliminary tasting". Also any known taste of beverages can be interpreted as "preliminary tasting".

Further teaching answering correctly to move, and answering incorrectly to not advancing (3:30-35).

Truong teaches tasting wine (5:Table 1), directive cards (32) invoking bonus condition and challenge (3:27-35 and Table 1 awarding points). Truong spaces are inherently

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blind taste spaces because the player inherently does not know the actual item that the player is going to taste.

Truong further teaches trivia game spaces (12) and tasting spaces (22).

Applicant might argue that Truong does not expressly teach preliminarily tasting.

Wine tasting procedures are universally accepted as creating a database of information prior to subjecting a wine to a test or a competition. Wines are tested and information such as its origin, aroma etc. are recorded for qualifying a wine. An expert who has compiled or at least as made records of such data in preliminary tasting process is then allowed to taste unknown wines and answer questions regarding character to the unknown wine.

In order to make the game interesting, it would have been obvious to allow to preliminarily tasting of wines before being put to test/competition. One of ordinary skill in art at the time the invention was made would have allowed preliminarily tasting of wine prior to taking a test. Examiner considers this as a well known and age old procedure of learning and taking the test in right sequence.

3. Claims 1,5-19,24-32,35 rejected under 35 U.S.C. 103(a) as being unpatentable over Truong in view of Official notice of any wine tasting procedures and further in view of Novotny (4733863).

Truong in view of official notice teach all limitations except that they do not expressly teach labeling spaces as blind tasting spaces.

Novotny teaches a plurality of trivia game spaces, a blind taste space (3:40-48) in a predetermined pattern around the periphery (10), game pieces (20) and space for

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recording the taste (30). Novotny further teaches direction cards (Fig.2), tasting area (22), note sheets for evaluating the beverage/wine (Fig.3-4).

In order to make the game interesting, it would have been obvious to allow to preliminarily tasting of wines before being put to test/competition. One of ordinary skill in art at the time the invention was made would have allowed preliminarily tasting of wine prior to taking a test. Examiner considers this as a well known and age old procedure of learning and taking the test in right sequence.

Truong teaches all limitations except that they do not expressly teach a recording sheet with information such as year of make, region etc.

Wine tasting procedure in official notice teaches recording all such information regarding wines. It is not possible to remember all such information and would have been obvious to record them on a recording sheet. One of ordinary skill in art at the time the invention was made would have recorded all information on a record sheet.

4. Claims 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Truong, Wine tasting procedure official notice and Novotny in view of Bowker (4529205).

Truong, Wine tasting procedure official notice and Novotny teach all limitations except that they do not teach providing wine labels on spaces.

Bowker teaches providing wine labels in spaces (16).

In order to make the game popular, it would have been obvious to provide theme related indicia. One of ordinary skill in art at the time the invention was made would have suggested providing theme related indicia to make the game popular.

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Further in order to distinguish one beverage from another it would have been obvious to indicate various characteristics such as their variety, name etc.

One of ordinary skill in art at the time the invention was made would have suggested providing differentiating indicia on spaces.

5. **Claims 33-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Truong, Wine tasting procedure official notice and Novotny.**

In order to make the game popular, it would have been obvious to provide theme related aesthetics in the game. One of ordinary skill in art at the time the invention was made would have suggested providing theme related aesthetics to make the game popular. There is no criticality of a cork like playing piece in applicant's disclosure.

Response to Arguments

6. Applicant's arguments with respect to claims 1,5-35 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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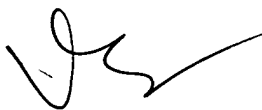
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VKM
October 6, 2004



Vishu K Mendiratta
Primary Examiner
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